

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications Relay Services	)	CC Docket No. 98-67
And Speech-to-Speech Services for	)	
Individuals with Hearing and Speech	)	CG Docket No. 03-123
Disabilities	)	
	)	
Petition for Declaratory Ruling on	)	
Video Relay Service Interoperability	)	

To: The Commission

**TELECOMMUNICATIONS FOR THE DEAF, INC. AND  
DEAF AND HARD OF HEARING CONSUMER ADVOCACY NETWORK  
REPLY COMMENTS REGARDING  
CCASDHH PETITION FOR DECLARATORY RULING ON  
VIDEO RELAY SERVICE INTEROPERABILITY**

Telecommunications for the Deaf, Inc. (“TDI”)<sup>1</sup> and the Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”)<sup>2</sup> hereby submit their reply comments regarding the Petition for Declaratory Ruling on Video Relay Service Interoperability (the “Petition”) submitted by the California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”) on February 15, 2005. By Public Notice, DA No. 05-509, released March 1,

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<sup>1</sup> TDI is a national advocacy organization that seeks to promote equal access in telecommunications and media for the 28 million Americans who are deaf, hard-of-hearing, late-deafened, or deaf-blind so that they may attain the opportunities and benefits of the telecommunications revolution to which they are entitled. TDI believes that only by ensuring equal access for all Americans will society benefit from the myriad skills and talents of persons with disabilities.

<sup>2</sup> DHHCAN, established in 1993, serves as the national coalition of organizations<sup>2</sup> representing the interests of deaf and/or hard of hearing citizens in public policy and legislative issues relating to rights, quality of life, equal access, and self-representation. DHHCAN also provides a forum for proactive discussion on issues of importance and movement toward universal, barrier-free access with emphasis on quality, certification, and standards.

2005 the Commission invited interested parties to file comments and reply comments. TDI and DHHCAN address in particular the comments filed by Sorenson Media, Inc. (“Sorenson”) on April 15, 2005.

In its comments Sorenson opposed any requirement for Video Relay Service (“VRS”) interoperability. Although Sorenson’s equipment is not interoperable with other VRS providers, Sorenson argues that it does not prevent its customers from obtaining service from other VRS providers using other equipment. Sorenson also argues that it does not prevent direct video-to-video calls from its customers to customers of other VRS providers, and that it does not block incoming calls from other VRS providers. Sorenson argues that its video calling is a proprietary part of the VP-100 videophone and that its integrated system makes interoperability difficult. It also argues that non-interoperability is needed to encourage innovation and to permit providers to receive a return on their investment. Lastly, Sorenson argues that every customer who receives a VP-100 videophone freely chooses Sorenson’s non-interoperable service.

TDI and DHHCAN take issue with the arguments made by Sorenson. When a customer accepts a free VP-100 videophone on the condition that it not use the VP-100 with other VRS services, that customer is not freely accepting the condition. Rather, the customer is agreeing to lack of interoperability as a condition of receiving the VP-100. TDI and DHHCAN explained in their April 15, 2005 comments that a customer does not have free choice if it must accept interoperability as a precondition of receiving the equipment needed for Sorenson’s VRS service. Nor does the customer have free choice by going to another provider of VRS, because as a result of Sorenson’s policies, if service is obtained from any other provider it is not interoperable with Sorenson’s service. In other words, Sorenson’s VRS policies have made it impossible for a consumer to choose a VRS provider whose service is interoperable with all other VRS providers.

Without free choice, informed consent is meaningless. Since Sorenson has forced lack of interoperability on all consumers no matter which VRS provider they pick, there is no such thing as informed consent when it comes to the question of interoperability.

Sorenson also argues that it is not preventing its customers from placing calls with other VRS providers. The customer merely needs to use equipment other than the VP-100. But the need for customers to have multiple pieces of VRS equipment is as absurd as requiring each voice telephone customer to have different telephones for each carrier. Just as voice telephone users do not need to have multiple telephones on their desk, for VRS to be functionally equivalent to voice telephone service as required by Americans with Disabilities Act (the “ADA”),<sup>3</sup> codified in Section 225 of the Communications Act of 1934, as amended (the “Act”),<sup>4</sup> people who are deaf or hard of hearing should not need to have multiple pieces of VRS equipment.

Sorenson argues that CCASDHH’s reliance on the interoperability condition imposed by the Commission in the *AOL-Time Warner Merger Order*<sup>5</sup> is misplaced because the Commission later lifted the condition.<sup>6</sup> However, CCASDHH cited the *AOL-Time Warner Merger Order* primarily for the proposition that Title I of the Act gives the Commission jurisdiction over

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<sup>3</sup> PL 101-336, July 26, 1990.

<sup>4</sup> 47 C.F.R. § 225.

<sup>5</sup> *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc., Transferors, to AOL Time Warner Inc., Transferee*, 16 FCC Rcd. 6547 (2001).

<sup>6</sup> *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc., Transferors, to AOL Time Warner Inc., Transferee; Petition of AOL Time Warner Inc. for Relief From the Condition Restricting Streaming Video AIHS*, CS Docket No. 00-30, Memorandum Opinion and Order, FCC 03-193, released August 20, 2003.

Internet services, a proposition that Sorenson does not dispute,<sup>7</sup> and that it is appropriate for the Commission to order interoperability when circumstances warrant. The question of VRS interoperability is very different from the question of advanced instant messaging-based high-speed service (“AIHS”) interoperability. In the case of AIHS, there is no statutory requirement that the service be functionally equivalent to anything, and the Commission lifted the condition as a result of changes in the marketplace. In the case of VRS, Section 225 of the Act requires that all Telephone Relay Services (“TRS”), including VRS, be functionally equivalent to voice telephone services. Because voice telephone customers have the benefit of interoperability,<sup>8</sup> so must VRS customers.

Sorenson argues that it does not prevent direct video-to-video calls from its customers to customers of other VRS providers, and that it does not block incoming calls from other VRS providers. However, when customers of Sorenson call each other, they may use an exclusive numbering system developed by Sorenson. When Sorenson customers call non-Sorenson customers, or non-Sorenson customers call Sorenson customers, they must use a cumbersome system of dynamic IP addresses. Since voice telephone customers can call each other using a uniform number dialing system, without regard to whether the calling party and the called party subscribe to the same telephone carrier,<sup>9</sup> functional equivalency requires that VRS users also have dialing parity, whether they are calling a customer of the same or different VRS provider.

Sorenson argues that its video calling is a proprietary part of the VP-100 videophone and that its integrated system makes interoperability difficult. However, Sorenson’s claims are

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<sup>7</sup> Sorenson Comments, April 15, 2005, at 24 n.42.

<sup>8</sup> See 47 U.S.C. § 251.

<sup>9</sup> See 47 U.S.C. § 251(b)(3).

inconsistent with statements made by Sorenson that it was specifically programming its equipment to block the ability to communicate with other VRS services.<sup>10</sup> In other words, the Sorenson equipment is not interoperable because interoperability is difficult; rather the Sorenson equipment is not interoperable because it is programmed to block interoperability.

Sorenson argues that non-interoperability is needed to encourage innovation and to permit providers to receive a return on their investment. This argument is similar to the ones made by AT&T prior to the break-up of the Bell Telephone System, where it argued that various Commission policies designed to promote competition would result in less investment and innovation in the greatest telephone system on earth. However, over the years, as more competition has come into telecommunications, we have seen the opposite. Competitive forces have encouraged far more innovation and investment than we saw in the days of the telephone monopoly. Moreover, there is nothing inconsistent with developing proprietary equipment to be interoperable with the telecommunications network. Every time someone invents a better customer device, it is designed to be interoperable with the telecommunications network. Interoperability does not stop customers from acquiring new types of equipment. On the contrary, interoperability fosters the deployment of new devices because customers know that it is interoperable.

Lastly, TDI and DHHCAN address here one point raised by the Communications Services for the Deaf, Inc. (“CSD”) in its April 15, 2005 comments, concerning whether VRS is a telecommunications service or an information service, and whether the FCC common carrier requirements apply to VRS. CSD explains that prior Commission rulings are inconsistent, but goes on to state that it does not matter whether VRS is a telecommunications service or an

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<sup>10</sup> Comments of Hands on Video Relay Services, Inc., April 15, 2005, at 8, n.3.

information service, because Section 225 of the Act requires functional equivalency. Hence anything that is provided by telecommunications carriers to voice telephone customers must also be provided by relay services to VRS customers to achieve functional equivalency. This includes interoperability.

TDI and DHHCAN agree with CSD's analysis. The requirement of functional equivalency means that TRS providers, including VRS providers, have all of the obligations of telecommunications carriers, whether VRS is a telecommunications service or an information service. Moreover, Section 225(d)(1)(E) of the Act<sup>11</sup> applies the obligations of common carriers to all TRS services, including VRS. Therefore, the Commission need not address the question of whether VRS is a telecommunications service or an information service in order to grant CCASDHH's petition for a declaratory ruling requiring VRS interoperability.

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<sup>11</sup> 47 C.F.R. § 225(d)(1)(E).

## **Conclusion**

For the reasons stated herein and in their April 15, 2005 comments, Telecommunications for the Deaf, Inc. and the Deaf and Hard of Hearing Consumer Advocacy Network respectfully request that the Commission grant CCASDHH's Petition for Declaratory Ruling on Video Relay Service Interoperability and require all providers of Video Relay Services to offer interoperable Video Relay Services.

Respectfully submitted,

/S/

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